

ESTTA Tracking number: **ESTTA237303**

Filing date: **09/17/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Dr. Ing. h.c. F. Porsche AG
Granted to Date of previous extension	09/17/2008
Address	Porscheplatz 1 Stuttgart-Zuffenhausen, 70435 GERMANY
Attorney information	Joel D. Leviton Fish & Richardson P.C. 60 South Sixth Street Suite 3300 Minneapolis, MN 55402 UNITED STATES tmdoctc@fr.com, france@fr.com, leviton@fr.com, jal@fr.com Phone:612-335-5070

### Applicant Information

Application No	77363848	Publication date	05/20/2008
Opposition Filing Date	09/17/2008	Opposition Period Ends	09/17/2008
Applicant	Blue Havoc Media PO Box 172 San Martin, CA 95046 UNITED STATES		

### Goods/Services Affected by Opposition

Class 035. All goods and services in the class are opposed, namely: Providing an on-line commercial information directory on the internet
Class 041. All goods and services in the class are opposed, namely: Media production services, namely, video and film production; News reporting services

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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### Mark Cited by Opposer as Basis for Opposition

U.S. Registration No.	2414167	Application Date	02/14/2000
Registration Date	12/19/2000	Foreign Priority	NONE

		Date	
Word Mark	911		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 012. First use: First Use: 1964/00/00 First Use In Commerce: 1965/00/00 Automobiles and Their Structural Parts		

Attachments	75917912#TMSN.gif ( 1 page )( bytes ) Notice of Opposition.pdf ( 5 pages )(151641 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Joel D. Leviton/
Name	Joel D. Leviton
Date	09/17/2008

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DR. ING. H.C. F. PORSCHE  
AKTIENGESELLSCHAFT

Opposer,

v.

BLUE HAVOC MEDIA,

Applicant.

In the matter of Serial No. 77/363,848

For the mark STOLEN 911 and Design

Published on May 20, 2008

Opposition No.: \_\_\_\_\_

**NOTICE OF OPPOSITION**

Dr. Ing. h.c. F. Porsche Aktiengesellschaft, a German corporation having its principal place of business at Porscheplatz 1, 70435 Stuttgart-Zuffenhausen, Germany (“Porsche”), believes it will be damaged by registration of the mark shown in intent-to use Application Serial No. 77/363,848 (the “Application”) and hereby opposes the same pursuant to the provisions of 15 U.S.C. § 1063.

The grounds for opposition are as follows:

1. Porsche manufacturers, markets, and sells throughout the world fine automobiles and automobile parts and accessories, among other products and services. Porsche introduced its now world-famous 911® automobile in at least as early as 1964, and has been using the distinctive 911 trademark in the United States continuously since at least as early as 1965. Since Porsche introduced its 911® automobile, Porsche has used its 911 mark on a variety of products in addition to automobiles and parts and accessories for automobiles, including, without limitation, watches, sunglasses, clothing, headwear, jewelry, key rings, model cars, toy pedal cars, and calendars. Given Porsche’s widespread use and promotion of its 911 trademark and the

high quality products sold under that mark, Porsche's 911 trademark has become one of the most well known and famous brands in the automotive industry.

2. In addition to its longstanding common law rights in the 911 mark, Porsche owns U.S. Registration No. 2,414,167 for the mark 911 in connection with "Automobiles and Their Structural Parts" in International Class 12. Registration No. 2,414,167 issued December 19, 2000 and has achieved incontestable status.

3. Applicant Blue Havoc Media ("Applicant"), seeks to register STOLEN 911 and Design as a service mark for "Providing an on-line commercial information directory on the internet" in International Class 35 and "Media production services, namely, video and film production; News reporting services" in International Class 41.

4. The Application was filed on January 3, 2008 and has been designated Serial No. 77/363,848.

5. The Application was published for opposition in the *Official Gazette* on May 20, 2008. On June 19, 2008, Porsche sought and obtained a 30-day extension of time to file a Notice of Opposition. On July 19, 2008, Porsche sought and obtained a further 60-day extension of time to file a Notice of Opposition, extending the opposition deadline until September 17, 2008.

6. Upon information and belief, Applicant has not filed an allegation of use in connection with the Application.

7. Porsche adopted and began using 911 as a trademark for, among other things, automobiles, automobile parts and accessories, and a variety of other products including watches, sunglasses, clothing, headwear, jewelry, key rings, model cars, toy pedal cars, and calendars long before Applicant filed the Application.

8. Porsche's common law and statutory priority dates precede the filing date of the Application and, upon information and belief, any priority date upon which Applicant may rely.

9. Porsche has priority over Applicant.

10. Porsche's 911 trademark is distinctive, well known, and famous, and became famous well before January 3, 2008 – the filing date of the Application.

11. Applicant had constructive knowledge, and upon information and belief actual knowledge, of Porsche's 911 mark prior to filing the Application.

12. The services identified in the Application consist of "Providing an on-line commercial information directory on the internet" and "Media production services, namely, video and film production; News reporting services."

13. The services set forth in the Application are broad enough to cover services relating to automobiles and the automobile industry including, among other things, providing an online directory relating to automobiles (including stolen automobiles) and producing video and films featuring automobiles.

14. Applicant's proposed STOLEN 911 and Design service mark so resembles Porsche's previously adopted, used, and registered 911 mark as to be likely, when used in connection with the services identified in the Application, to cause confusion, to cause mistake, or to deceive. Purchasers and prospective purchasers are likely to mistakenly believe that the services Applicant allegedly intends to offer under the STOLEN 911 and Design mark emanate from, or are sponsored, endorsed, or approved by Porsche, or are in some way affiliated, connected, or associated with Porsche, all to the detriment of Porsche. Registration of Applicant's mark, therefore, should be refused under 15 U.S.C. §§ 1052(d) and 1063.

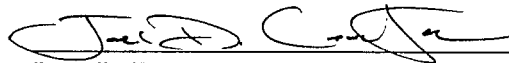
15. Registration of the proposed STOLEN 911 and Design mark would be a further source of damage to Porsche, as it would confer upon Applicant various statutory presumptions to which it is not entitled in view of Porsche's long prior use and registration of its 911 mark.

WHEREFORE, pursuant to Section 13 of the Lanham Act, 15 U.S.C. § 1063, Porsche respectfully requests that Application Serial No. 77/363,848 in International Classes 35 and 41 be rejected and that registration of the mark therein for the services therein specified be refused.

In accordance with Trademark Rule of Practice 2.6(a)(17), the \$300 fee is submitted herewith. Please direct all communications concerning the above-captioned cancellation proceeding to the undersigned attorney at the address indicated.

Respectfully submitted,

Date: 9/17/08



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ATTORNEYS FOR OPPOSER

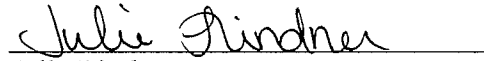
## **CERTIFICATE OF SERVICE**

I certify that on September 17, 2008, I have caused a true and correct copy of the attached Notice of Opposition to be served upon the following, directed to said party at the following address and in the below manner:

BLUE HAVOC MEDIA  
PO BOX 172  
SAN MARTIN, CA 95046-0172

VIA U.S. MAIL

Respectfully submitted,

  
Julie Lindner